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Message Text

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13
ACTION ARA-10

INFO OCT-01 SS-14 ISO-00 SCS-01 SCA-01 L-02 SSO-00 SY-02

INR-10 INRE-00 RSC-01 DRC-01 /043 W
---------- 069142
O R 100600Z OCT 74
FM AMEMBASSY BRASILIA
TO SECSTATE WASHDC NIACT IMMEDIATE 5957
INFO AMCONSUL RECIFE
AMCONSUL RIO DE JANEIRO
AMCONSUL SAO PAULO

C O N F I D E N T I A L SECTION 1 OF 2 BRASILIA 7770

LIMDIS

E.O.11652: GDS
TAGS: PINS, BR, CPRS (MORRIS, FREDERICK)
SUBJECT: REPLY TO EMBASSY NOTE ON DETENTION OF AMERICAN CITIZEN
MORRIS

REF: BRASILIA 7616

FOLLOWING IS EMBASSY'S INFORMAL TRANSLATION OF A NOTE DELIVERED TO AMBASSADOR AT 6 PM, OCTOBER 9 BY SECRETARY GENERAL OF FONMIN, IN RESPONSE TO EMBASSY NOTE REFTEL:

1. QUOTE MR. AMBASSADOR
I WISH TO ACKNOWLEDGE RECEIPT OF NOTE NO. 418, OF THE 4TH OF THIS MONTH, WHICH YOUR EXCELLENCY PRESENTED TO ME ON THE SUBJECT OF THE DETENTION IN RECIFE, CAPITAL OF THE STATE OF PERNAMBUCO, OF AMERICAN CITIZEN FREDERICK BIRTEN MORRIS, AS WELL AS TO EXPRESS THE CONSIDERATIONS WHICH, IN RESPECT TO THIS SUBJECT, SEEM TO ME TO BE PERTINENT.

2. YOUR EXCELLENCY, AT THE BEGINNING OF THE NOTE UNDER REFERENCE, AND EVEN BEFORE PRESENTING THE MATERIAL AND THE ARGUMENTS WHICH YOU CONSIDERED APPROPRIATE, PRESENTS YOUR FORMAL PROTEST CONCERNING THE CONDUCT OF THE BRAZILIAN AUTHORITIES IN RELATION TO THE FACTS
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CONCERNING THE DETENTION OF MR. FREDERICK BIRTEN MORRIS ON THE

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THREE POINTS WHICH I NOW PROCEED TO EXAMINE.

3. YOUR EXCELLENCY, IN WHAT YOU CONSIDER TO BE THE "IMPROPER AND UNACCEPTABLE PROCEDURES FOLLOWED BY BRAZILIAN AUTHORITIES" PROTESTS THE FACT THAT THE CONSUL OF THE UNITED STATES WAS NOT INFORMED ABOUT THE DETENTION OF THE AMERICAN CITIZEN UNDER REFERENCE. YOUR EXCELLENCY WELL KNOWS THAT THE VIENNA CONVENTION, THE ONLY LEGAL TEXT INVOKED BY THE EMBASSY, DOES NOT OBLIGE THE GOVERNMENT OF ANY TERRITORY TO KEEP EMBASSIES AND CONSULATES INFORMED WITH RESPECT TO THE DETENTION OF THEIR NATIONALS. THIS OBLIGATION WOULD BE AN UNACCEPTABLE EXTENSION OF THE RIGHT OF DIPLOMATIC PROTECTION AND A LIMITATION OF THE SOVEREIGN RIGHT OF JURISDICTION AND THE EXERCISE OF FULL AUTHORITY OF THE STATE OVER THE PERSONS PRESENT IN ITS TERRITORY. ON THE OTHER HAND, THIS WOULD BE THUS CHARACTERIZED AS A PRIVILEGE OF SUCH A KIND AS TO ESTABLISH AN UNMISTAKABLE JURIDICAL UNEQUALITY BETWEEN NATIONALS AND FOREIGNERS.

4. THE VIENNA CONVENTION, IN ITS ARTICLE 36, AS CITED BY YOUR EXCELLENCY, CLEARLY OBLIGES THE AUTHORITY OF THE TERRIITORIAL STATE TO PROVIDE INFORMATION TO THE CONSUL ABOUT THE DETENTION OF HIS NATIONALS, WHEN SUCH A REQUEST IS DULY FORMULATED. NOW, IN THE VERY TERMS OF YOUR EXCELLENCY'S NOTE, THIS OBLIGATION WAS FULLY COMPLIED WITH, AS THE FACTS SET FORTH IN IT DEMONSTRATE.

5. YOUR EXCELLENCY RELATES THAT, "ON ... TUESDAY, OCTOBER 1," THE CONSUL OF THE UNITED STATES SOUGHT INFORMATION, IN RESPECT OF THE IMPRISONMENT OF MR.MORRIS," FROM THE FOURTH ARMY", (SIC) WHICH, ON THE SAME DAY, BY THE INTERMEDIATION OF A HIGH RANKING OFFICER, MADE KNOWN TO HIM THE DETENTION OF MR. MORRIS.

6. IT IS YOUR EXCELLENCY HIMSELF WHO THUS EXPRESSES A FACT WHICH WEAKENS YOUR PROTEST: LESS THAN 24 HOURS AFTER THE ATTEMPT, BY THE CONSUL OF THE UNITED STATES, ACTING IN THE TERMS OF A BROAD INTERPRETATION OF ARTICLE 36 OF THE VIENNA CONVENTION, TO INFORM HIMSELF WHETHER OR NOT MR. FREDERICK MORRIS WAS UNDER DETENTION BY THE FOURTH ARMY, THE BRAZILIAN AUTHORITY -- THE OFFICER CITED BY YOUR EXCELLENCY -- PROVIDED IN A CORRECT MANNER THE INFORMATION REQUESTED BY THE AMERICAN CONSULAR AUTHORITY.

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7. THE VIENNA CONVENTION -- ARTICLE 36 -- INVOKED BY YOUR EXCELLENCY, DOES NOT PRESCRIBE INSTANTANEOUS INFORMATION. IT DOES NOT EVEN ALLUDE TO A PERIOD OF TIME, FOR THE PURPOSE IT SERVES IS INFORMATION THAT IS BOTH EXACT AND BASED ON THE TRUTH OF THE FACTS, WHICH PERMITS THE CONSULAR AUTHORITY TO FULFILL HIS DUTY. IN GIVINE, IN 24 HOURS, AS YOUR EXCELLENCY'S NOTE RECOGNIZES, THE INFORMATION REQUESTED OF IT, THE FOURTH ARMY, IN THIS CASE THE COMPETENT AUTHORITY, FULLY COMPLIED WITH THE VIENNA

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CONVENTION, TO WHICH BRAZIL IS A SIGNATORY. IN THESE CONDITIONS, IT IS MY OBLIGATION TO DENY, IN THIS PARTICULAR, YOUR EXCELLENCY'S PROTEST, USING FOR THIS PURPOSE THE ELEMENTS THAT APPEAR IN YOUR NOTE.

8. YOUR EXCELLENCY ALSO PROTESTS AGAINST WHAT YOU CONSIDER THE REFUSAL BY THE AUTHORITIES OF THE FOURTH ARMY TO AUTHORIZE THE VISIT OF THE CONSUL OF THE UNITED STATES OF AMERICA TO MR. FREDERICK MORRIS. AFTER PRESENTING YOUR PROTEST, THAT ALWAYS PRECEDES AN EXPOSITION OF THE FACTS, YOUR EXCELLENCY INFORMES ME THAT ON OCTOBER 2, AFTER HAVING BEEN INFORMED THAT MR. MORRIS HAD BEEN DETAINED, AND "ACTING AT THE EXPRESS INSTRUCTIONS OF THE EMBASSY", THE CONSUL OF THE UNITED STATES OF AMERICA REQUESTED FROMTHE FOURTH ARMY, AND THE EMBASSY IN BRASILIA, FROM MY CABINET, THE NECESSARY AUTHORIZATION FOR CONTACT BY THE CONSUL WITH THE DETAINEE.

9. IT IS YOUR EXCELLENCY HIMSELF WHO AFFIRMS THAT THE INFORMATION ABOUT THE DETENTION OF MR. MORRIS WAS GIVEN TO THE AMERICAN CONSUL "IN THE LATE AFTERNOON OF OCTOBER 2." (NOTE: ENGLISH TEXT USED HERE). NOW, EVEN IF THE CONSUL HAD BEEN AUTHORIZED BEFOREHAND BY THE EMBASSY TO REQUEST THE VISIT, SUCH A REQUEST WAS MADE, IN RECIFE, LATE IN THE AFTERNOON OF THE 2ND. THE DEMARCHE TO MY CABINET, BEGUN ON THE NIGHT OF THE 2ND, WAS FORMALLY COMPLETED ON THE MORNING OF OCTOBER 3, AS YOUR EXCELLENCY STATES IN THE NOTE. ON THE AFTERNOON OF OCTOBER 3, A FEW HOURS AFTER THE REQUEST WAS MADE, WHETHER IN RECIFE OR IN BRASILIA, PERMISSION WAS GRANTED AND THE VISIT OF THE CONSUL TO HIS COMPATRIOT WAS MADE ON THAT SAME DAY, AS STATED IN YOUR EXCELLENCY'S NOTE. THUS, BETWEEN THE REQUEST FOR THE VISIT AND ITS ACCOMPLISHMENT, THERE WAS A LAPSE OF LESS THAN ONE DAY. THE VIENNA CONVENTION, IN THIS RESPECT ALSO, DOES NOT ESTABLISH ANY PERIOD OF TIME FOR THIS, AND THE DELAY CANNOT BE REASONABLY
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DESCRIBED AS EXCESSIVE. IN THESE CIRCUMSTANCES, I MUST, ONCE AGAIN, DENY, IN THE LIGHT OF THE FACTS PUT FORWARD BY YOUR EXCELLENCY, AND OF THE INCONTESTABLE MEANING OF THE VIENNA CONVENTION, I REPEAT, DENY THE PROTEST CONTAINED IN YOUR NOTE.

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ACTION ARA-10

INFO OCT-01 SS-14 ISO-00 SCS-01 L-02 SCA-01 SSO-00 SY-02

INR-10 INRE-00 RSC-01 DRC-01 /043 W
---------- 069209
O R 100600Z OCT 74
FM AMEMBASSY BRASILIA
TO SECSTATE WASHDC NIACT IMMEDIATE 5958
INFO AMCONSUL RECIFE
AMCONSUL RIO DE JANEIRO
AMCONSUL SAO PAULO

C O N F I D E N T I A L SECTION 2 OF 2 BRASILIA 7770

LIMDIS

10. YOUR EXCELLENCY PROTESTS ON THE BASIS OF THE DECLARATIONS OF MR. FREDERICK MORRIS TO THE CONSUL OF THE UNITED STATES OF AMERICA, AGAINST WHAT YOU CONSIDER "INHUMANE TREATMENT" GIVEN THE AFORESAID AMERICAN CITIZEN, WHOSE "BASIC RIGHTS WERE VIOLATED" (SIC), AS YOUR EXCELLENCY AFFIRMS.

11. IT IS MY DUTY TO POINT OUT TO YOUR EXCELLENCY, ALONG WITH MY FORMAL REJECTION OF THESE STATEMENTS, HOW SURPRISED I WAS THAT, BASED ON THE BARE STATEMENTS OF AN AMERICAN CITIZEN DETAINED IN THE EXERCISE OF SUBVERSIVE ACTIVITY AND WITHOUT ANY ACCURATE EXAMINATION OF THE FACTS YOUR EXCELLENCYMAKES ACCUSATIONS OF THIS NATURE INVOLVING THE CONDUCT OF THE BRAZILIAN AUTHORITIES. CONFIDENT THA THE TRUTH WILL PREVAIL OVER THE UNFOUNDED ASSERTIONS OF MR. MORRIS, UNFORTUNATELY ENDORSED BY YOUR NOTE, I MUST EXPRESS MY REFUSAL TO ACCEPT THE STATEMENTS OF YOUR EXCELLENCY ON THIS POINT AS WELL.

12. YOUR EXCELLENCY REQUESTS IN HIS NOTE, THAT THERE BE GIVEN FORMAL GUARANTEES THAT MR. MORRIS WILL RECEIVE, IN THE FUTURE, "HUMANE AND CORRECT TREATMENT." THE RESPONSE TO THIS POINT IS EVIDENT, IN AN UNMISTAKABLE FORM, IN THE PRECEDING ITEM.

13. YOUR EXCELLENCY REQUESTS , MOREOVER, THAT MR. FREDERICK
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BIRTEN MORRIS BE "EXAMINED AND TREATED BY A DOCTOR TO BE CHOSEN BY THE EMBASSY" (SIC). YOUR EXCELLENCY'S REQUEST IS NOT BASED ON ANY NORM OF INTERNATIONAL LAW. YOUR EXCELLENCY MAY BE ASSURED THAT MR. MORRIS WAS EXAMINED BY A MEDICAL BOARD, COMPOSED OF FIVE CIVILIAN MEMBERS, AND THAT THE MEDICAL REPORT, WHICH WILL BE

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RELEASED BY THE MINISTRY OF JUSTICE, DOES NOT CORROBORATE THE STATEMENTS MADE IN YOUR EXCELLENCY'S NOTE.

14. FINALLY, YOUR EXCELLENCY REQUESTS THE OPENING OF AN INQUIRY TO ESTABLISH THE FACTS INCLUDED IN YOUR NOTE. IN THIS CONNECTION, THE GOVERNMENT IS PRECEEDING WITH AN INQUIRY TO DISCOVER THE ACTIVITIES AND CONNECTIONS OF MR. MORRIS.

15. IT IS NOT POSSIBLE FOR ME TO AVOID REFERRING TO THE CIRCUMSTANCES IN WHICH, CONTRARY TO EXISTING INTERNATIONAL CUSTOMS AND NORMS, THE EMBASSY OF THE UNITED STATES OF AMERICA, AUTHORIZED BY YOUR EXCELLENCY, ACCORDING TO WHAT YOU TOLD ME, MADE STATEMENTS TO THE PRESS CONCERNING THIS SUBJECT BEFORE THE DELIVERY BY YOUR EXCELLENCY OF THE NOTE TO WHICH I AM REPLYING. THIS FACT IS OF SIGNIFICANT IMPORTANCE AND I AM UNABLE TO AVOID EXPRESSING MY PROTEST CONCERNING THIS POINT.

16. THESE, MR. AMBASSADOR, WERE THE CONSIDERATIONS WHICH, IN THE ELEVATED LANGUAGE APPROPRIATE BETWEEN GOVERNMENTS, IT WAS MY DUTY TO COMMUNICATE TO YOUR EXCELLENCY.
(COMPLIMENTARY CLOSE). SIGNED ANTONIO F. AZEREDO DA SILVEIRA.
UNQUOTE
CRIMMINS

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TAGS: PINS, CASC, CPRS, BR, US, (MORRIS, FREDERICK B)
To: STATE
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